

Service Date: April 1, 1991

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER OF THE COMPLAINT OF	)	
Steve Lockmer,	)	
	)	UTILITY DIVISION
Complainant,	)	
	)	
vs.	)	DOCKET NO. 90.5.31
	)	
Butte Water Company, a corporation,	)	ORDER NO. 5544
	)	
Defendant.	)	

ORDER ON REQUEST FOR PAYMENT

FINDINGS OF FACT

Background

On April 16, 1990 Steve Lockmer wrote the Montana Public Service Commission (Commission) stating that Tom McIntee had wanted him to put in a new service at 718 South Wyoming (Lot 718), Butte, Montana, because the old service was leaking.

Mr. Lockmer decided to put the new service in at 720 South Wyoming (Lot 720), also owned by Mr. McIntee. This line would serve two purposes: a new service line to Lot 718 and a spigot at Lot 720 to clean up and water the lot. Lot 718 has a house and Lot 720 is vacant. Mr. Lockmer was unable to pull a new service line through at Lot 720,

so he shut off Lot 720 at the main line, disconnected the lead connection and pulled in a new service at Lot 718.

According to his April 16, 1990 letter, sometime in February Mr. Lockmer submitted two undated bills to Butte Water Company (BWC) for labor and excavation charges at Lot 720 for \$1,180 and at Lot 718 for \$1,020. A BWC employee informed him that BWC would not pay for work on Lot 720 and was asking its attorney whether the bill for Lot 718 should be paid.

On May 8, 1990 Mr. Lockmer sent the Commission a letter filed as a formal complaint. He had received full payment of \$1,020 for the "new water service" at Lot 718 and no payment at Lot 720. The formal complaint asked for payment as billed for the work done at Lot 720.

On May 14, 1990 the Commission voted to treat the matter as a formal complaint. The Commission published notice and required Butte Water Company either to satisfy or respond to the complaint.

Butte Water Company filed its response on June 4, 1990, responding as follows:

- (1) Complainant submitted no evidence that the bills for work at either Lots 718 or 720 are limited to costs recoverable from a private water service provider under § 69-4-511, MCA, and ARM 38.5.2502(5);
- (2) Complainant did not perform the work in compliance with Commission regulations;
- (3) The work performed at Lot 720 was unnecessary, incomplete and nonreimbursable under § 69-4-511, MCA, and ARM 38.5.2502(5); and

- (4) Payment for the work performed at Lot 718 should be repaid to Butte Water Company since it was noncompliant with ARM 38.5.2503(1) and 38.5.2502(5) in that the work served two houses. (Butte Water Company alleges that the service line for Lot 718 also serves a third Lot 716 South Wyoming.)

#### FURTHER FINDINGS AND DISCUSSION

The Commission finds that BWC has paid Mr. Lockmer in full as billed for the work requested by BWC's customer, that is, for service at Lot 718. Mr. McIntee did not request service for Lot 720, and Mr. Lockmer did not provide a new service line there.

The Commission finds that the utility paid for the service at Lot 718 in acknowledgment that in fact work was done in substantial compliance with the rules.

Mr. Lockmer proceeds solely on his complaint that Butte Water Company should pay him for work done on Lot 720 which was undertaken unsuccessfully to provide service to Lot 718. BWC should not pay twice for excavation and labor charges that should properly have been for Lot 718 in the beginning. The Commission finds no reason to require Butte Water Company to pay for any work done on Lot 720.

The Commission finds there to be no dispute that Mr. Lockmer did service line work for Mr. McIntee on Lots 718 and 720. Butte Water Company had his two statements long enough to evaluate whether to pay them and did not ask for further itemization before paying for work done on Lot 718. The Commission finds no reason to order reimbursement of the payment for work done at Lot 718.

In examining Complainant's documentation and Defendant's brief, however, the Commission finds that procedures for compliance with § 69-4-511, MCA, are lax. Contractors performing work under this provision should provide documentation of charges to enable the customer and the company to determine the extent of the responsibility for payment; the utility should likewise require such an itemization.

The Commission directs Butte Water Company to notify contractors of minimum requirements expected on itemized bills for payment to comply with § 69-4-511, MCA. Butte Water Company shall confirm in written correspondence to the Commission

what steps it has taken to assure this notice to all contractors undertaking service line and other repairs covered by law.

### CONCLUSIONS OF LAW

The Montana Public Service Commission is invested with full power of supervision, regulation and control of public utilities pursuant to Title 69, Montana Code Annotated. § 69-3-102, MCA.

The Commission has general powers and rulemaking authority to enable it to perform its duties and exercise its powers. § 69-3-103, MCA.

Butte Water Company is a public utility subject to the jurisdiction of the Commission.

Butte Water Company, a private water service provider, is responsible for the costs of maintaining water service pipelines from the main to the property line. The property owner is responsible for payment for pipe and supplies between the main and the property line. § 69-4-511, MCA.

### ORDER

WHEREFORE, IT IS ORDERED AS FOLLOWS:

1. Complainant's request for an order directing payment of \$1,180 from Butte Water Company for excavation work at 720 South Wyoming, Butte, Montana, is DENIED.
2. Butte Water Company's request for reimbursement for work done by Complainant at 718 South Wyoming, Butte, Montana, is DENIED.
3. Butte Water Company shall develop procedures establishing requirements for itemization of statements to be submitted to the company for payment. Butte Water Company shall submit written documentation to the Commission of these requirements and measures taken to notify all affected contractors of what is required on statements submitted to Butte Water Company for payment.

Done and dated this 27th day of March, 1991 by a vote of 3-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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HOWARD L. ELLIS, Chairman

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DANNY OBERG, Vice Chairman

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JOHN B. DRISCOLL, Commissioner

ATTEST:

Ann Peck  
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.